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Conference

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 ERIC GLATT, on behalf of
4 himself and all others
similarly situated, et al.,

5 Plaintiffs,

6 v.

11 Civ. 6784 WHP AJP

7 FOX SEARCHLIGHT PICTURES, INC.,

8 Defendant.

9 -----x

10 October 23, 2012
11 10:55 a.m.

12
13 Before:

14 HON. ANDREW J. PECK,

15 U.S. Magistrate Judge

16
17 APPEARANCES

18 OUTTEN & GOLDEN, LLP (NYC)

19 Attorneys for plaintiffs

20 BY: ELIZABETH HARTLEY WAGONER, Esq.

21 JUSTIN SWARTZ, Esq.

Of counsel

22 PROSKAUER ROSE LLP (NY)

Attorneys for defendant

23 BY: ELISE MICHELLE BLOOM, Esq.

24 AMY F. MELICAN, Esq.

- and -

25 NICHOLAS BUNIN,

Vice President, Fox Entertainment

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1 (In open court)

2 (Case called)

3 THE COURT: Let me start by noting that Mr. Bunin has
4 flown in for this, and just to let everyone know, I know him
5 from the property discovery forum which deals with discovery
6 issues, as many other groups, but we spent some time at those
7 fora and the dinners and the like afterwards. I don't think it
8 is a recusable event. I am not asking for anyone's consent or
9 anything else. The information is out there.

10 I have read your October 15th letter. Let's try to
11 take the issues one at a time. I have also had a chance at
12 this point to review the original complaint and Judge Pauley's
13 scheduling order and his last conference transcript. So I am
14 somewhat up to speed, but probably not fully on all the things
15 that have gone on in the past.

16 As to the discovery schedule, my view is there should
17 not be expedited discovery. However, I do believe, as you
18 heard listening to the prior conference, in the Sedona
19 cooperation principles for all discovery, not just key
20 discovery, and it seems to me if there are going to be
21 objections, that we should not particularly at this late stage
22 of the case have to wait 30 days for the formal response which
23 will then include objections and perhaps the usual way
24 responding parties get further time, which is to say, here's my
25 formal response which says I object to some things, I'll give

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1 you some things, and as to when you'll actually get those some
2 things, we'll talk, which means it isn't going to be there on
3 the 30th day.

4 With that, is there anything else to say on that or
5 should we go to the more specific issues about class lists and
6 depositions, et cetera?

7 MS. WAGONER: Yes, your Honor, just one comment, your
8 Honor. If the court's view is that there should not be an
9 expedited discovery schedule, I would request that the court
10 order two things in addition to what it has already set:

11 First, that Fox produce all of the documents it is
12 going to produce, setting aside the discovery on the date that
13 responses are actually due.

14 THE COURT: That is correct. THAT is what I thought I
15 was implying, so now it is specific.

16 MS. WAGONER: Okay. The second point which is that
17 there be a date certain that the parties must submit a joint
18 letter outlining any disputes so that there is no delay in that
19 process in terms of getting it in front of the court for us to
20 compel any additional parties.

21 THE COURT: The request seems to be dated October 10,
22 so I assume the response is due November 10. Is that
23 everybody's --

24 MS. BLOOM: By my calculation, your Honor, it is
25 November 13th.

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1 THE COURT: November 10 is a Saturday. The 12th is in
2 red in the calendar, so it is Veterans Day. So the 13th it is.
3 You'll need to do a meet-and-confer. You'll want to get a
4 joint letter to me by the 15th. Is that too fast or --

5 MS. WAGONER: That is perfect, your Honor.

6 MS. BLOOM: Your Honor, that is a little ambitious.

7 THE COURT: It shouldn't be because I am going to
8 probably give you a date for filing objections which will be
9 less than the 30th day because I think that makes sense. So
10 you want to pick that date yourself?

11 MS. BLOOM: Your Honor, could I have a moment to just
12 address the truncated time that you just indicated you might
13 issue?

14 When plaintiff's counsel approached Judge Pauley about
15 amending their complaint, the case had been filed almost a year
16 before, and we had had an extended discovery period as to the
17 original claims, and we had done a significant amount of paper
18 and e-discovery, and I can go through that to the extent it
19 would be helpful to the court.

20 In approaching Judge Pauley with their request for
21 leave to amend the complaint, they were very clear when they
22 said that they didn't anticipate that they would require much
23 new discovery, just some targeted discovery regarding the
24 expanded FEG intern group may be necessary, and I am quoting
25 from their August 2 letter to Judge Pauley.

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1 You said you were familiar with this transcript and
2 you have seen the transcript, that he indicated that the
3 plaintiffs had, in fact, said that the discovery -- and I
4 believe it was on Page 14 -- that the discovery would be brief.
5 The discovery that had -- now reading from Page 14, Judge
6 Pauley said, and they, meaning the plaintiff's counsel,
7 represent that only limited additional discovery will be
8 necessary.

9 When we returned from the conference, we were then
10 served with extensive discovery requests, and I know if you
11 just simply look at the number of interrogatories, which I
12 think is 12 or 13 and number of requests, which is 33, that
13 does not tell the full story because if you look at the
14 instructions and the definitions, it is immediately apparent
15 what is being asked for is extensive, and nothing like that was
16 represented to the court.

17 Your Honor --

18 THE COURT: With all respect, it seems to me -- and
19 you may win -- if you object to this as overly broad and
20 burdensome, et cetera, you may well win on that. I would
21 rather deal with that sooner rather than on the 30th day when
22 assuming that some of your objections are upheld but some of
23 them are not, when you will then say well, now it is November
24 13th and discovery closes December 14, we can't possibly get
25 the material within, you know, two weeks to allow time for

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1 depositions in the last two weeks.

2 I have looked at the requests. I think some of them
3 are broad and probably too broad. If you all want to do that
4 on the fly today, you know, I am willing to do that, although
5 it is not my preferred method of doing it.

6 If you want to have it run in a semi-normal course, it
7 would seem to me that in two weeks instead of 30 days you can
8 figure out what you're objecting to on overbreadth or
9 burdensome, that there is then a chance to discuss that and
10 possibly bring it before the court.

11 MS. BLOOM: Just one more point on that, maybe two
12 points. First of all, when the plaintiffs served their
13 discovery, since we had this long period of discovery on
14 Searchlight, they had a very good idea exactly what was
15 involved. More importantly, they waited until Friday night,
16 the last possible moment to serve us with their amended
17 complaint. So that had two effects.

18 It is very difficult -- yeah, we can look at their
19 discovery and say it is overbroad, but we need to look at it
20 also in light of what they put in their amended complaint. One
21 would have thought that might have been the first thing they
22 did. The other impact of them waiting until Friday night, the
23 last possible moment to serve it is we couldn't intelligently
24 prepare our discovery requests until we got the complaint. So
25 that puts us at least a week behind the 8-ball.

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1 In considering whether to in any way --

2 THE COURT: I suspect in these typical FSLA-type
3 cases, that the plaintiffs probably don't have much
4 information. So even though you're a week behind -- and maybe
5 I decide that their objections to yours have to be more
6 expedited to keep you on the same track. If that is something
7 you like and the quid pro quo, since some of the discovery is
8 the court ordering things and some of it is getting both sides
9 to agree to do certain things together, i.e., cooperation, that
10 is fine. If you want to suggest a date that you're willing to
11 file objections and that you think it is fair for them to file
12 objections on that same day, let me hear it.

13 MS. BLOOM: How about two weeks from today? I want to
14 represent to the court we intend to serve our discovery at the
15 end of the day on plaintiffs.

16 THE COURT: Two weeks from today is November 6th,
17 which is election day, so that moves you to November 7, and the
18 ultimate response is due the 14th. I am not sure that gains
19 very much. Do you really need that much time to sit down with
20 Fox to figure out your objections?

21 Can we get it done Friday, November 2; and, therefore,
22 kill your weekend on both sides with meet and confer and
23 possibly get you to come see me on the 5th or 7th or
24 thereabouts?

25 MS. BLOOM: I am going to be in a court ordered

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1 mediation in Minneapolis on November the 6th.

2 THE COURT: Make sure to -- you're in New York, it
3 probably doesn't matter one way or the other. Whoever you're
4 voting for?

5 MS. BLOOM: I did my absentee ballot. I already
6 voted. I took care of that well in advance.

7 I really would ask -- and that is why I said two weeks
8 from today -- we can certainly do it by that Monday, the 5th,
9 and come see your Honor by the end of that week.

10 THE COURT: Does that work for the plaintiffs?

11 MS. WAGONER: Yes, it does, your Honor.

12 THE COURT: Objections, both sides, November 5, and
13 let's see what I've got later in that week. (Pause)

14 I am on criminal duty, which means we have to do it
15 bright and early first thing in the morning before the
16 criminals wake up, so to speak. I am being semi-facetious, we
17 can't get them to court from the MCC if they were arrested the
18 night before until 10:00 o'clock or later. Normally I do it at
19 9:30, expecting to be on the criminal Bench at 10:00. Do you
20 think you need more than half an hour? I will give up half an
21 hour of sleep and make it 9:00 o'clock.

22 What is your pleasure?

23 MS. WAGONER: Me might want to do it at 9:00 o'clock.

24 MS. BLOOM: We are talking about that Friday?

25 THE COURT: Let's set it at 9:00. So November 8,

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1 Thursday, at 9:00 am sharp. If you decide you've worked
2 everything out or you've worked enough out that we can start at
3 9:15 or 9:30 --

4 MS. BLOOM: Is it possible to do it on Friday? I have
5 a doctor's appointment at 8:30 on the 8th.

6 THE COURT: Sure.

7 MS. BLOOM: Thank you. I apologize.

8 THE COURT: The 9th, at 9:00 am, okay. So I think
9 that takes care of the general scheduling issues.

10 Anything else from either side on those first three
11 and a half pages of order?

12 MS. WAGONER: On that general scheduling issue, no.

13 THE COURT: Okay. Class and subsidiary lists. I
14 guess my question is to the plaintiff: What is the rush?

15 And then we'll deal with the defendant: Why can't you
16 get it sooner rather than later? What is the urgency?

17 MS. WAGONER: In a nutshell, the urgency, we need to
18 be able to define the scope of the class we're talking about
19 and which entities are actually subject to the same practices
20 that we described in the complaint. That is information that
21 we have been trying to get from Fox since well before we even
22 moved to amend the complaint. We have been trying to get it in
23 discovery. Fox refused to provide it.

24 THE COURT: What I am ask is this: At least as of the
25 moment, you have a December 14th discovery cutoff and Judge

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1 Pauley having said that is not going to be extended. So
2 assume, you know, whether it is on November 14th or sooner or
3 later or whatever, that you get the list of interns, then what?

4 MS. WAGONER: We would like to be able to use this
5 time to be conduct fact investigation, and the interns' contact
6 information is essential for us to be able to do that, to be
7 able to call these people, to find out what their experiences
8 were, to learn information in the most efficient way possible.

9 If we have contact information now, we will be able to
10 do that. In addition to that --

11 THE COURT: The contact information two weeks later,
12 you'll be able to do that, you'll just, you know, have two
13 weeks less to do it between the date you get it and the
14 certification motions due not until January 18th.

15 MS. WAGONER: That is true. We don't want to lose
16 those two weeks. It may be quite a number of people that we
17 need to reach out to. It seems to us that --

18 THE COURT: You also, quite frankly, can put an ad in
19 Variety or whatever and do it through self-help. Be that as it
20 may, let's just find out what has to be done on the defense
21 side to gather this information, and there is clearly a dispute
22 as to the scope of the interns, whether it is just those that
23 Ms. Hoffman was responsible for or any intern in any Fox
24 company?

25 MS. BLOOM: Your Honor, as to the scope issue, our

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1 recommendation would be that that is an issue that would get
2 decided when we look at the objections. With regard to the
3 Aimee Hoffman interns, we have already given them a list of the
4 companies that Aimee Hoffman either recruited for, collected
5 paperwork for, was involved in the interview process, and we
6 had already told them that we would be willing to give them the
7 contact information for those interns early.

8 I don't know that I necessarily am happy to describe
9 the process in terms of compiling that information, but I would
10 certainly give it --

11 THE COURT: Okay. Does that work?

12 MS. WAGONER: Your Honor, I am concerned about losing
13 the two weeks. What we already know from --

14 THE COURT: What two weeks?

15 Frankly, they don't have to give you this until
16 November 14th. They have now offered to give it to you by
17 November 5, which is less than two weeks from today. I don't
18 know exactly what it is going to take them to pull this
19 together, but you decided when you were going to serve the
20 discovery on them.

21 MS. WAGONER: Your Honor, actually at the October 9th
22 conference before Judge Pauley, we asked Judge Pauley to order
23 defendants to produce this immediately even without a discovery
24 request.

25 THE COURT: What did he say?

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1 MS. WAGONER: Judge Pauley said he already ruled we
2 were entitled to contact information and they should --

3 THE COURT: That is different. Show me the exact
4 page, but my memory is you certainly did not order it
5 expedited.

6 MS. WAGONER: It was at the very end of the
7 conference.

8 THE COURT: The last page, Page 18. "I have already
9 ruled on it. It shouldn't be a problem. If there is any
10 dispute about it, send me a letter," et cetera, et cetera.

11 That doesn't say that they have to give it to you by
12 that Monday or Thursday or whatever, there just had to be an
13 agreement whether it is being produced or not being produced.
14 I could push them to do it two, three days earlier.

15 What is the point?

16 MS. WAGONER: I mean, I guess --

17 THE COURT: Okay, November 5, but now as to non-Aimee
18 Hoffman interns, I assume Fox is objecting?

19 MS. BLOOM: Yes, your Honor. We believe that, yes, we
20 believe that is beyond the scope of what Judge Pauley allowed
21 them to do when they amended their complaint.

22 THE COURT: Can I see the amended complaint?

23 MS. WAGONER: Yes, your Honor.

24 (Pause)

25 THE COURT: Where is the class definition?

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1 MS. WAGONER: The class definition is -- there are a
2 few classes in the case, your Honor, but it first appears on
3 Page 10.

4 THE COURT: Right, which seems to be the New York
5 corporate intern class, which appears to be in the FEG
6 internship program, which I assume is Ms. Hoffman's program,
7 correct?

8 MS. WAGONER: We don't think that is right.

9 The problem is Fox has chosen this definition to
10 define their class without giving us any information about
11 where that comes from. We have asked Fox to tell us well,
12 okay, you're identifying a group of interns who worked that
13 Aimee Hoffman was involved with. Does that cover all of the
14 Fox entities that had interns and were subject to the same
15 policy? They have not given us that information.

16 THE COURT: What policy are you saying is the policy?

17 MS. WAGONER: The policy is the Fox Entertainment
18 Group internship program, and that Fox Entertainment Group
19 issued guidelines to supervisors. It tracked all of the
20 interns who worked for it and it is a people --

21 THE COURT: Hold on. All who worked for a corporation
22 named Fox Entertainment Group, Inc.?

23 MS. WAGONER: That is our understanding, your Honor.

24 THE COURT: That is simple because then it is maybe
25 broader than Hoffman, but it is only people who worked for FEG,

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1 Inc., not various Fox subsidiaries, which seems to be where
2 you're going, which then gets into I don't know how many
3 subsidiaries the fair and balanced Fox entities have. That is
4 a little dig at Fox or the news division of Fox, but they can
5 handle it.

6 MS. WAGONER: There may be some misunderstanding here
7 because the definition of an employer under the Fair Labor
8 Standards Act is broad. If Fox Entertainment Group takes the
9 position that it didn't have interns at all, that is a
10 different question from who the employer is under the Fair
11 Labor Standards Act and New York labor law.

12 It is our understanding Fox Entertainment Group
13 administered the internship program for a number of different
14 subsidiaries. We have been hamstrung during discovery because
15 Fox hasn't been willing to give us information about what
16 subsidiaries are covered by these policies, what subsidiaries
17 Fox Entertainment Group administers an unpaid internship
18 program for. We need to get that discovery to know that.

19 THE COURT: It seems at this late stage in the case
20 you're running afoul of the representation to Judge Pauley that
21 you want limited discovery because it seems what you're doing,
22 besides the Hoffman interns, is saying we want all the interns
23 who worked for FEG, Inc. We also want any intern that worked
24 for some Fox company. And now is that a 100 percent
25 subsidiary? Is that a 20 percent subsidiary? Where do you

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1 draw the line? And I don't know the Fox corporate ownership
2 hierarchy very well.

3 Where exactly are you drawing the line? Or at this
4 late stage are you trying to get discovery for a third amended
5 complaint which will add Fox News, Inc., if that is an entity,
6 or any other entity that is the actual technical employer of
7 the interns?

8 MS. WAGONER: I can tell you exactly where we're
9 drawing the line. In writing our discovery requests, number
10 one, Fox maintains information about interns in its People Soft
11 human resources database and it classifies them under two
12 categories: Paid Group K and Job Title on Credit Intern. We
13 want a report from People Soft, all interns listed under Pay
14 Group K and Job Title Credit Intern. That will satisfy us.

15 THE COURT: That is not what Question No. 1 says. It
16 is certainly what your letter seems to be saying. I guess the
17 question for Fox is we can argue about the merits later, but is
18 it easy enough to run this Pay Group K and Job Title Credit
19 Intern list through People Soft? It may be accurate, it may be
20 inaccurate. They want to do with it as they wish. You will
21 poke holes in it in terms of substance for trial.

22 How hard is it to generate the printout?

23 MS. BLOOM: In terms of generating the printout, the
24 printout will not give them the information they're looking
25 for, Ms. Wagoner. I wanted to point out the class definition

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1 comes directly from their motion to amend, and I can direct the
2 court to or read into the record the portions of their motion
3 to amend where they specifically talk about the fact that there
4 are no interns in FEG, Inc.

5 So what they articulated that they wanted was interns
6 for whom Aimee Hoffman either recruited or was somehow involved
7 in administering the internship program.

8 THE COURT: Why don't you hand it up instead of
9 reading it? It is probably easier.

10 MS. BLOOM: My copies are marked up.

11 THE COURT: If you don't care, I don't care. If
12 plaintiff's counsel doesn't care?

13 MS. WAGONER: No. That is fine.

14 (Pause)

15 MS. BLOOM: I handed up the motion in support of leave
16 to amend as well as the reply memo and directed the court to
17 Page 602.

18 THE COURT: It certainly looks -- and for the record,
19 it is Page 6 of the opening brief and Page 2 over to the 3rd of
20 the plaintiff's reply brief -- certainly it seems that what you
21 are telling Judge Pauley to allow the amendment was that the
22 definition is, or the commonality is that Ms. Hoffman was the
23 recruiter using the same internship policies.

24 MS. WAGONER: Your Honor, we gave Judge Pauley the
25 information that we were able to get during discovery. Now, at

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1 Ms. Hoffman's deposition, Ms. Hoffman was a 30 (b)(6)
2 representative that --

3 THE COURT: Before or after the September 26
4 submission of your reply brief?

5 MS. WAGONER: Before.

6 THE COURT: That's what we are limiting it to.

7 MS. WAGONER: So at that deposition, your Honor, Fox
8 would not allow Ms. Hoffman to answer questions about the
9 internship program at large. It limited her responses to
10 Searchlight only. We have only been able to glean scraps of
11 information about the --

12 THE COURT: Here is the issue. You're supposed to
13 have a complaint followed by discovery, not the other way
14 around. You have asked to amend based on what you know, which
15 is other entities followed Ms. Hoffman's policies. Let me
16 rephrase that to use your exact words:

17 Other FEG subsidiaries, "for which Ms. Hoffman
18 recruited that were governed by the same internship policies as
19 Searchlight."

20 What I think you're saying is now that that was the
21 basis for Judge Pauley granting you leave to amend, you also
22 want any other intern hired by any Fox subsidiary and then
23 you're going to work backwards from there or something to
24 figure out whether they were under a common policy or not.

25 It seems to me particularly at this late stage of the

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1 case, with less than two months left in discovery, and with you
2 asking the court to expedite the defendant's response, that you
3 should be limited by what you asked Judge Pauley for.

4 What am I missing?

5 MS. WAGONER: I think the issue is that we haven't
6 been able to get that discovery because Fox wouldn't --

7 THE COURT: You don't get discovery until you have a
8 plaintiff and a complaint that you've asked Judge Pauley to
9 give you. Frankly -- and I am not suggesting motion practice.
10 I am not sure that this complaint -- and let me back up because
11 I have not read the motion papers that led to Judge Pauley's
12 order. Was there a proposed amended complaint attached?

13 MS. WAGONER: Yes, there was, your Honor.

14 THE COURT: Was it in essence the same as the one
15 you've just handed up to me that has actually now been filed?

16 MS. WAGONER: The only thing we revised were the
17 things Judge Pauley had ordered us to revise. We were not
18 ordered to revise the class definition in any way to tie it to
19 Hoffman. The class definition remains unchanged from what we
20 attached to our original brief.

21 THE COURT: Ms. Bloom, is that correct?

22 MS. BLOOM: They were ordered to make search changes.

23 One of the changes was not as to the class definition.
24 I certainly think Judge Pauley, as were we, operated under the
25 assumption they were looking for the Aimee Hoffman interns. My

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1 reading of the amended complaint that I just recently received
2 is that they did make all of the changes they were supposed to
3 make.

4 THE COURT: That is a different issue. It is one
5 thing if -- you know, I certainly heard you to be saying they
6 told Judge Pauley their only interest was the Hoffman interns,
7 but if this complaint is significant, substantially the same
8 form as the class definition which is not limited to Hoffman,
9 then I think we go back and I'll let you argue on the class
10 certification motion and otherwise, but it may be imperfect,
11 but now we are back to all they want apparently is the Pay
12 Group K and Job Title Credit Intern list at --

13 MS. BLOOM: For what, your Honor?

14 THE COURT: Don't worry about it. The question is, I
15 take it -- I don't firmly believe, obviously, that anything in
16 a computer comes out with a Staples Easy Button, but I
17 certainly would think that is the sort of thing that is an easy
18 run. Is it?

19 MS. BLOOM: It might be an easy run, but it doesn't
20 generate the information they're looking for.

21 For example --

22 THE COURT: Are you satisfied with the run period, not
23 that they're then going to have to go through a gazillion
24 personnel files to find you other information?

25 MS. WAGONER: Yes, your Honor.

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1 MS. BLOOM: The run is over-inclusive, your Honor.

2 THE COURT: Okay.

3 MS. BLOOM: The problem with that, when we did our
4 first stage of discovery which was, as I said, it took eight
5 months to do all the discovery that they wanted, we produced
6 certain things that were over-inclusive, including one
7 privileged document, and now the standing that we had a
8 clawback in our confidentiality agreement, they wouldn't give
9 the document back. I am very concerned about giving them
10 over-inclusive information.

11 THE COURT: Why?

12 MS. BLOOM: I don't even know how many of the 500
13 subsidiaries had interns. What I know is what Aimee Hoffman
14 did.

15 THE COURT: Okay. Here is the question:

16 The first stage, you're going to give them this run
17 from People Soft. Maybe they're going to call some of these
18 people up. Now, it may be that the people at Soft Run don't
19 have addresses and phone numbers, it just has names. I don't
20 know. Whatever it is, Ms. Wagoner has just said whatever it is
21 it is and she will accept it and not ask for any follow-up.

22 MS. WAGONER: I don't know that is the only document
23 responsive to Request No. 1 and we won't ask for follow-up,
24 that that is it.

25 THE COURT: Okay.

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1 MS. BLOOM: I am sorry. Maybe I should let Mr. Bunin
2 address this. I am not sure what I am including. There is 500
3 subsidiaries for FEG.

4 THE COURT: It all runs through People Soft.

5 MS. BLOOM: He has to address that.

6 THE COURT: Mr. Bunin?

7 MR. BUNIN: Your Honor, yes, there are a myriad of
8 different entities that that run through People Soft. Job
9 codes that run different data elements that can be used in
10 terms of your inquiry can be created, but we have to know what
11 we are creating.

12 THE COURT: It seems to me we'll get to a time period
13 in a minute, but that it is for any Fox entity that is in what
14 appears to be a centralized People Soft database that come
15 within Pay Group K and Job Title Credit, either. Is that a
16 search that you can easily perform?

17 MR. BUNIN: It can be done, yes, your Honor.

18 THE COURT: Okay.

19 MS. BLOOM: Your Honor if what they're saying now is
20 that it would be Aimee Hoffman people plus other companies that
21 use the same policies, something like that can pick up people
22 that had nothing to do with this.

23 THE COURT: I am going to assume that this is
24 excessively over-inclusive in some ways and under-inclusive in
25 the other, but this is discovery. Whether it is admissible, it

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1 probably isn't. So if they think they will be able to use this
2 to call some people up and find out, you know, what Fox's
3 policies were, et cetera, maybe that will be of some use to
4 them. Maybe it won't. If they then try to use it at
5 deposition or otherwise, your people will explain why it is a
6 useless document.

7 It is what they want, and if I don't do it this way,
8 there is the risk, because their complaint is broader than just
9 the Aimee Hoffman interns, that you're going to have to spend a
10 lot more time making the list accurate. Is that really of
11 benefit to you? They can make their own decisions. Is that a
12 benefit to Fox?

13 MS. BLOOM: Your Honor, and I think my concern is
14 similar to what you had articulated before, that this is going
15 to somehow generate a list of people, many of whom have nothing
16 to do with the current lawsuit.

17 THE COURT: Right.

18 MS. BLOOM: The next thing that will happen is they're
19 going to go out, and like they have been doing, they're going
20 to try to find more plaintiffs and come back and try to move to
21 amend the complaint to add even more companies.

22 THE COURT: That makes it easy.

23 Are you agreeing there will be no further amendments
24 to the complaint in terms of adding plaintiffs other than if
25 the class certification motion or any other motion, collective

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1 action is granted? And that there will be no adding of
2 additional companies?

3 MS. WAGONER: We can agree that barring the need to
4 replace a plaintiff if something happens to somebody or some
5 emergency.

6 THE COURT: If a plaintiff dies or is incapacitated, I
7 will consider that you've got a possible opt-out with respect
8 to that. Other than that, there will be no additional
9 defendants named and no additional plaintiffs other than
10 through the class certification and related motions.

11 Agreed?

12 MS. WAGONER: Yes, that is fine.

13 THE COURT: All right. With that overcoming your
14 concern, about the only other fear may be that they're going to
15 upset your former interns or present interns.

16 MS. BLOOM: It actually doesn't, your Honor, address
17 the concern because my concern is that the way they're trying
18 to define the class, it arguably includes all 500 FEG
19 subsidiaries or 500-plus. That clearly was not what was
20 intended when we went before Judge Pauley.

21 THE COURT: Since Judge Pauley knows what he was
22 thinking at the time of class certification motions, on January
23 18th and your response thereafter you will make that argument
24 to Judge Pauley.

25 MS. BLOOM: Except that there is a big difference

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1 between the 10 companies that Aimee Hoffman was responsible for
2 administering that were the only ones that even having a
3 colorful argument should be part of this case, and that is the
4 argument they made to Judge Pauley.

5 THE COURT: I appreciate that, and when I thought that
6 their motion papers did not have a proposed amended complaint
7 attached and that they went from an Aimee Hoffman argument to
8 an all intern argument and sandbag the Judge, you and Judge
9 Pauley, I was leading the way.

10 I have seen your definition which was not limited to
11 Aimee Hoffman. If you want to call my attention to other
12 paragraphs other than the ones on Page 10 and 11, which I have
13 read, if you think there is something else in here limiting it,
14 what I am trying to do is get discovery done at the minimum
15 cost to you and, you know, let you all argue merits down the
16 road.

17 If I have to do it a different way, the result may be
18 that you will have to do it, quote-unquote, right, which I
19 assume will be a process not only that won't be finished by
20 November 5th, but won't be finished by November 14th. That is
21 nothing in your interests or theirs because it may well result
22 in a movement to the December 14th discovery cutoff date.

23 So pick your poison.

24 MS. BLOOM: Can I confer with my client for a minute?

25 THE COURT: Sure.

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1 (Off-the-record discussion)

2 MS. BLOOM: I guess the question, your Honor -- and if
3 I misstate it, Mr. Bunin will help me -- is that if we give
4 them the report, does that then open up the discovery in this
5 case to that full list of people, full list of potential
6 custodians, and the custodians would be potentially not just
7 the interns to the extent we have discovery for them, but we
8 looked for Aimee Hoffman's companies. There is between 150 and
9 200 possible custodians, and that is just for 10 companies.

10 THE COURT: We are certainly not going anywhere near
11 that in a less than two month discovery period. There is one
12 other thing that may help to limit this, and that is, is there
13 a way through the People Soft to tell which of them worked in
14 New York because while there is a production for Searchlight
15 which I assume has already been fully discovered that is a
16 California class action allegation as well, I think the FEG
17 program is limited to New York unless I missed something.

18 MS. BLOOM: The FEG program is limited to Antalik as
19 the class representative. So with regard to claims that
20 wouldn't be time-barred, Judge Pauley said it related-back,
21 which is something that we are actually filing a motion for
22 reconsideration on.

23 Assuming we lost that motion, then you're right, it
24 really would only implicate the New York class because as of
25 today, the three years would have already run for the FSLA. As

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1 you know, under Fair Labor Standards Act it is not a
2 relation-back statute, individually driven statute, of course,
3 driven by opt-in for any particular plaintiff. Yes, I do think
4 it would only be New York.

5 THE COURT: Agreed?

6 MS. WAGONER: I don't agree it would only be New York,
7 your Honor, because there are FSLA collective members who
8 worked in California.

9 THE COURT: Except?

10 MS. WAGONER: Judge Pauley ruled --

11 THE COURT: We'll help you about that if and when you
12 get collective action certification.

13 MS. WAGONER: They're all witnesses, all of them.

14 THE COURT: Life is short. People Soft, limited to
15 people who worked in New York.

16 MS. WAGONER: I really don't understand what the
17 distinction is here because --

18 THE COURT: Give me a paragraph. I am looking at
19 Paragraph 65, 66 that defines the New York production intern
20 class. Give me --

21 MS. WAGONER: Sure. We can go to --

22 THE COURT: Is it 91, Paragraph 91?

23 MS. WAGONER: Yes, yes.

24 THE COURT: This is a new claim?

25 MS. WAGONER: No. We also had a claim, FSLA claim in

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1 the original complaint.

2 MS. BLOOM: This isn't the FEG claim. The FEG claim
3 is only brought on behalf of Eden Antalik.

4 THE COURT: Paragraph 91?

5 MS. BLOOM: 91.

6 THE COURT: Plaintiff Antalik brings FSLA claims on
7 behalf of herself and all unpaid interns who participated in
8 the FEG internship program between certain dates defined as the
9 corporate intern collective.

10 MS. BLOOM: It is our position that the FSLA claim,
11 that it starts running from three years back, three years back
12 from the current complaint from today, actually.

13 THE COURT: That means it is a nationwide possible
14 group, only a shorter time period.

15 MS. BLOOM: That's right.

16 THE COURT: From 2009, October 2009 or thereabouts. I
17 don't think the one-year difference makes that much of a
18 difference yet.

19 MS. BLOOM: It is actually significant because as the
20 plaintiffs know, the company started paying their interns in
21 2010, so it is a big difference.

22 THE COURT: Not necessarily. It may be a substantive
23 difference. I am looking at the People Soft database issue
24 again, and I think I come back to you're doing People Soft, Pay
25 Group K, Job Title Credit Interns, no state limitation, or if

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1 you want to do a New York run separate from a rest of country
2 run, it seems that may be better in some ways and more work in
3 others. What is your pleasure on that?

4 MS. BLOOM: I would like to do a New York run separate
5 from a national run. The national run would only go back three
6 years, to three years from when they filed their amended
7 complaint, which would have been Friday night.

8 The New York run, Judge Pauley did say the New York
9 labor law claim would relate-back. I am representing to the
10 court we are filing a motion for reconsideration on that
11 because we think he misread the Cross Key decision and didn't
12 consider the substantive decision.

13 MS. WAGONER: Judge Pauley ruled the claims related
14 back to the date of the original complaint.

15 THE COURT: FSLA as well?

16 MS. WAGONER: Yes, FSLA and the class, yes.

17 THE COURT: What page of the October 9th transcript,
18 Folks?

19 MS. BLOOM: On Page 12 where he said:

20 "Plaintiffs proposed claims against Fox Entertainment
21 relate-back to the filing of the original complaint."

22 An FSLA claim under the law can't relate-back. I can
23 cite you to cases that hold that.

24 THE COURT: Okay.

25 MS. WAGONER: That is actually inaccurate. We cited

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1 those cases in our brief.

2 THE COURT: I can't do all of Judge Pauley's work for
3 him.

4 MS. BLOOM: We are moving for reconsideration on the
5 New York labor law claim.

6 THE COURT: To the extent you get reconsideration
7 before you have to produce the list, you can change the dates.
8 Otherwise, run it. Run it once or twice, but run it back to
9 the September 28th, 2005 date. That seems to be the broadest
10 it might possibly be, but I am warning the plaintiffs --

11 (Simultaneous voices)

12 THE COURT: Stop! Democracy ends at some point. You
13 are not getting much follow-up on this. Make sure you're
14 understanding that. We are not doing a year's worth of
15 discovery in a month and a half.

16 MS. WAGONER: Your Honor, I agree with you. I want to
17 be very clear we want to ultimately find the group of people so
18 that we can certify a class. We don't want to make it too
19 broad, so we have information so we have the right class.

20 THE COURT: You get it. You know enough. You have
21 asked for these codes out of People Soft. You are getting it.
22 If it doesn't have what you want or need, I am not going to
23 look kindly, or to put it even more bluntly, the odds of you
24 getting anything else of identifying class members than this is
25 slim to none. You understand that, right?

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1 MS. WAGONER: Yes, I understand.

2 THE COURT: Okay.

3 MS. BLOOM: Your Honor, on the nationwide poll, you're
4 ordering us to --

5 THE COURT: Judge Pauley said it relates-back.

6 Whether that was meant to cover both or meant to cover
7 just the New York labor law claim is not something I can
8 answer. When you move for reconsideration, I assume Judge
9 Pauley will deal with that very quickly. If he rules in your
10 favor before the due date for this, then you don't have to do
11 it any further back than he says what the case involves.

12 If he hasn't ruled, then it is what it is and again on
13 the assumption that once whatever programming is done to run
14 this, that the time of running it for back to 2009 versus 2005,
15 subject to Mr. Bunin or one of his colleagues or computer folks
16 coming in and telling me that I made an assumption that was
17 wrong, that it is going to be considerably extra cost to do
18 this, I am making no -- let me be clear, I am making no
19 decision as to whether this information is admissible, what
20 arguments you can make, and you can make.

21 You are free to do whatever you want. I am not
22 implying in any way, shape or form that everybody or, indeed,
23 anybody that is produced on the Pay Group K, Job Title Credit
24 Intern list out of People Soft is a potential member of the
25 class or the collective action or anything else. I am doing it

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1 in a very simple approach under Rule 1 of the Federal Rules of
2 Civil Procedure, which is this gives them some information,
3 albeit inaccurate.

4 It satisfies the plaintiffs. It is not burdensome on
5 the defendant; and, therefore, that is the court's ruling. You
6 have the right, and I have no problem if you want to take it to
7 Judge Pauley since I am pinch-hitting here, so to speak, and he
8 has been involved in the case a lot longer, not only is it your
9 statutory right, but I have no problem. You can ask him to
10 clarify, reconsider, file objections and get it in front of him
11 in that way, whatever you want, but at this point I think we
12 have talked about it enough.

13 That's the court's ruling. Let's move on.

14 MS. BLOOM: Sorry, but he ruled as to the California
15 claims, it did not relate-back.

16 THE COURT: I think there is -- is there any
17 California corporate as opposed to Searchlight issue?

18 MS. WAGONER: The only California corporate issue is
19 the FSLA claim.

20 MS. BLOOM: That can't go back longer than three
21 years. Even if it does relate-back, it shouldn't go back
22 longer than 2008. There is a significant difference between
23 asking us to pull nationwide data to going back longer than
24 that.

25 MS. WAGONER: Your Honor --

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1 THE COURT: What is the difference?

2 MS. BLOOM: Three years.

3 THE COURT: Thank you for the math. I thought I
4 already told you that absent some information that cost-wise it
5 is going to cost you any more to do it for three years versus
6 six years or whatever the difference is here, otherwise I think
7 you're saying as to the FSLA plaintiffs, say it relates-back.
8 You say it doesn't. The California, you say, Judge Pauley said
9 clearly doesn't relate-back, but that's a California state law
10 claim.

11 Look, you want to do three different lists so you show
12 who is in California, who is in New York and who is in the rest
13 of the country but for the full period, I don't care, but that
14 sounds like you're just creating work for yourself, and
15 probably if this data is in the form that I think it is in, it
16 is going to show who was in what state, no?

17 MS. BLOOM: I will let Mr. Bunin answer that.

18 MR. BUNIN: It varies. The database is only as the
19 information is put into it. I believe designation of location
20 is subsumed in the department so that it can be -- that being
21 said, it is in many cases it is coded. I need to double-check
22 that. I certainly think we can certainly write a query to try
23 to cull that out and make that separation if that is necessary.

24 THE COURT: I don't think it is necessary. You're all
25 trying to do it. As far as I am concerned, plaintiffs have

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1 asked you to query the People Soft database for all interns in
2 the Pay Group K, Job Title Credit Intern going back to
3 September 28th, 2005, and whatever information comes out of the
4 database based on that comes out.

5 Perhaps before you run it, if there is some columns or
6 whatever, some bits of information that may or may not be
7 picked up, depending on how you do the query, you could talk to
8 the plaintiffs so they don't have to do it twice, and that is
9 the best for the two of you.

10 Other than that, you know, and this is a warning to
11 the plaintiff, too, you know what this database looks like from
12 earlier in the case. I don't. You have said it is sufficient.
13 If they have codes in there that you don't already have the
14 explanation of, whether it this defendant's, you know, people
15 who worked in other other things, I am not going to look kindly
16 on anything that requires them to do much more work than give
17 you the printout or the electronic version of the printout.

18 Is that Clear?

19 MS. WAGONER: Yes, your Honor. We have only asked
20 them for the categories in a document they already produced to
21 us, and I have a copy of it here if you like to see it.

22 THE COURT: Let me see it. That will help.

23 MS. WAGONER: Also I am going to pass up an e-mail
24 attached that shows it only takes an hour to run this report.

25 (Pause)

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1 THE COURT: Okay, this is helpful. I note that it
2 doesn't give you address or phone number, so what you're going
3 to do with this I have no clue.

4 MS. WAGONER: We have asked them to give us address
5 and phone number in addition.

6 THE COURT: That is the point, counsel.

7 MS. WAGONER: It is in the document request, your
8 Honor.

9 THE COURT: I understand that. You're about to lose
10 credibility. I said based on the letters, this is all you
11 want. Now, yes, your document request asks for a zillion other
12 things. We are not doing that.

13 MS. WAGONER: I think that is fine. I already agreed
14 to narrow it. I am not saying we need all of these fields. I
15 bring it up just to show that the database --

16 THE COURT: Either we are not speaking the same
17 language or I am not going to order them to do this, and then
18 when they object to Request 1 because it asks for last known
19 home address, phone number, e-mail, company number, unit name,
20 all the stuff some of which is on this chart, a lot of which
21 like address, phone number and e-mail certainly isn't, I am not
22 going to have them then going into personnel records or
23 querying the computer or other things.

24 Either this list of names is sufficient and you'll go
25 on the internet and try to figure out where the plaintiff used

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1 a fictitious name, Sherlock Holmes, whether it is when you find
2 five addresses for Sherlock Holmes in Los Angeles, whether it
3 is the one you want or you don't want, but if you want a lot
4 more, not only aren't you getting it fast, and let me rephrase
5 it, if you want anything more than the columns on the People
6 Soft printout bearing Bates Stamp D0053986 through 93, speak
7 now because I thought I was very clear, but obviously I wasn't,
8 that if you want to do this as a simple and fast way to get the
9 information, that is all you're getting.

10 MS. WAGONER: That is exactly right, we just want what
11 the database has spit out.

12 THE COURT: Now, counsel, come on, please. With all
13 due respect, I don't like double-talk. A computer can spit out
14 a gazillion things. Are you satisfied with getting the Intern
15 Category K, et cetera, in exactly, exactly the format on
16 Document D0093986, yes or no?

17 MS. WAGONER: That in addition to e-mail addresses and
18 phone numbers.

19 THE COURT: That request is denied. When lawyers
20 don't answer my question particularly 45 minutes or an hour
21 into a conference, it does not do well for them. The request
22 is denied.

23 MS. WAGONER: Your Honor --

24 THE COURT: No. The request is denied based on your
25 prior representation to the court this is all you want, period.

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1 Take it up to Judge Pauley.

2 MR. SWARTZ: Your Honor --

3 THE COURT: I am done. I am done. Thank you. You
4 have blown it, counsel. That is it.

5 MR. SWARTZ: We requested Request No. 1, and that is a
6 request we were going on in this entire conversation.

7 THE COURT: No. I specifically asked your colleague
8 if you got this People Soft printout, is that it?

9 MR. SWARTZ: Based on Request No. 1, your Honor.

10 THE COURT: That is not what was said and that is not
11 what I am giving you.

12 MS. WAGONER: We would even limit it to just the
13 addresses and phone numbers. I guess I really honestly don't
14 know where the confusion was because I think I am asking for
15 exactly what -- I am not asking for any more than your Honor
16 already ordered. I give this to you as an example of what the
17 database can do. I want the contact information. I am not
18 trying to get any more than that.

19 MR. SWARTZ: The purpose of the request --

20 THE COURT: You also asked for a gazillion other
21 things in Document Request No. 1.

22 MR. SWARTZ: We are willing to limit it in here
23 because of what the court just stated. The purpose, the real
24 purpose is to get the contact information, the last known
25 address, last known telephone number and last known e-mail

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1 address which is in the database and couldn't cost a penny more
2 to spit out. That is the purpose of the questions. We both
3 are sitting here today talking, we thought, about Request No. 1
4 the entire time.

5 THE COURT: I don't think I am speaking Greek. So I
6 suggest you all listen a lot more carefully, and also when I
7 ask a question, you answer the question. It is not a political
8 debate you get to answer whatever you want when the moderator
9 asked the question. If you had to pick one of those three
10 identifiers, address, e-mail or phone, which do you want?

11 MS. WAGONER: Phone number, your Honor.

12 THE COURT: Can that be added to the query without any
13 special programming?

14 MR. BUNIN: It would need to be broken out, but it
15 would not be terribly difficult to do.

16 THE COURT: All right, phone number and that is it.

17 MS. WAGONER: Thank your Honor.

18 THE COURT: Okay. That, I believe, takes care of
19 that. Now we get into the depositions. These are all
20 third-party depositions. My inclination, again based on Judge
21 Pauley's ruling, is to allow them to occur. I am relying on
22 his statement at the October 19th conference. Now I have to
23 find a page again.

24 Page 15 line 5, "For the foregoing reasons,
25 plaintiff's motion to amend is granted. Plaintiff shall file a

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1 first amended complaint conforming to this Court's ruling by
2 October 16th, 2012. In view of this amendment, this Court
3 extends the discovery deadline until December 7th, 2012. No
4 further extensions will be granted."

5 It does not seem to limit it to new matters, and since
6 they're third parties, while obviously Fox will be attending
7 the deposition, it does not seem that if this is the only three
8 that are -- and let's be clear on that -- if these are the only
9 three that relate to old as opposed to new issues, I would be
10 inclined to let them go forward. Are they the only three?

11 MS. WAGONER: Yes, your Honor.

12 THE COURT: Is there any further argument from the
13 defense?

14 MS. BLOOM: No, your Honor.

15 THE COURT: All right. You all on whichever side can
16 notify those witnesses and get them scheduled on a date
17 convenient for the witness and the parties, and let's get that
18 done sooner rather than later in terms of getting fixed dates
19 because we don't want the deadline to come up and you have
20 scheduled for December 6th and somebody gets sick or whatever.

21 Also is it December 7th or the 14th? There seems --

22 MS. BLOOM: I think it is the 14th, actually. On the
23 deposition scheduling, and of course subject to the witness's
24 convenience, my client is from California and he would like to
25 attend, so he asks if, assuming it works for the witnesses, we

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1 can schedule them on consecutive days, we can --

2 THE COURT: Any problem?

3 MS. WAGONER: Sure, we are happy to work with them.

4 THE COURT: The hardest thing would be probably to be
5 working with the non-parties, but I suspect there may be some
6 prior business relationship with Fox so that you can use that
7 to at least get the scheduling satisfactory.

8 Otherwise, there are ways to do a video hookup or
9 something, but it is not as good, let's put it that way. Let
10 me give you each your material back, although I will keep the
11 first amended complaint, but the printout and the briefs go
12 back to each of you.

13 What else else, if anything, we need to deal with
14 today? Anything from either side?

15 MS. WAGONER: Plaintiffs don't have anything else.

16 MR. BUNIN: Your Honor, I just wanted to be clear just
17 to make sure I understand the terms of what is being done in
18 the last part of discovery since my team will be doing it. We
19 talked about the People Soft report. That is fine.

20 What I was hoping was not the case, and I wanted to
21 articulate clearly we have identified there are a number of
22 things coming up here whether there is an expectation that full
23 and complete discovery is going to be needed to be done on all
24 of these people when those names appear. That is a different
25 kettle of fish.

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1 THE COURT: Fortunately, Ms. Wagoner is shaking her
2 head in the "no" direction, which is the same direction my head
3 would have been going if she hadn't gotten there first.

4 I do suggest that as soon as possible you sit down and
5 deal with that. Indeed, why don't in the first instance, do
6 you have in mind who's e-mails you want searched for the like?

7 MS. WAGONER: Yes, your Honor. We sent Fox a letter
8 on October 10th listing the seven custodians we think are most
9 likely to have responsive information, and we had already
10 agreed on search terms to run on those custodian e-mail
11 accounts months ago during the first discovery phase. We ask
12 Fox to talk to us about that and let us know if they're right
13 with it. I hope we have those conversations quickly to get
14 that moving.

15 THE COURT: This is the Goldilocks, is seven too much
16 or too little or just right?

17 MR. BUNIN: Seven will not break the bank, your Honor.
18 Thank you.

19 MS. BLOOM: On the seven, two are, two are lawyers
20 that we have an issue with doing e-mail searches on. I just
21 want to be clear so that we don't have a problem later on.

22 When they say we agreed on search terms, we had search
23 terms that we did for Searchlight, but when we did the search
24 terms that they're talking about, it generated -- and Mr. Bunin
25 can speak to it -- an unimaginable amount of e-mail. I think

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1 it was around eight million or something. We had to go in and
2 refine the search terms by using the interns' names and using
3 the names of their supervisors, the e-mail addresses. In order
4 to get all of that information, it actually took a substantial
5 amount of additional work. So when we say that we're just
6 talking about five or seven custodians with the search terms, I
7 don't think --

8 THE COURT: Let's deal with the lawyers first. These
9 are in-house Fox lawyers, I assume?

10 MS. BLOOM: Two are in-house Fox lawyers, and my
11 understanding is that they want their e-mail with regard to the
12 good-faith defense for the FSLA claim, and I believe --
13 although I need to confirm with my client -- that we will not
14 be pressing that defense. So that should obviate the need for
15 the e-mails from those two lawyers.

16 THE COURT: All right. If there is no quote-unquote
17 good-faith defense, you don't need the lawyers?

18 MS. WAGONER: That's right.

19 THE COURT: Try to figure that out sooner rather than
20 later. As to the other five custodians, the names of interns
21 clearly are not going to work as a limitation now and we are
22 talking certainly not eight million e-mails are going to be
23 looked at now. So you all have some suggestion?

24 MS. WAGONER: Yes, your Honor. Our letter actually
25 didn't propose running that type of search. There were about

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1 four different sets of strings, and one in the original
2 strings, one of those, a couple of those four sets of strings
3 were names and supervisor names and that kind of thing.

4 We had proposed not running those extra strings and
5 just running the strings for particular terms. It is
6 unfortunate. We should have had this conversation among
7 ourselves. It sounds like there is confusion. We were just
8 seeking particular word searches. Of course, if that is
9 generating an enormous amount of hits, we'll refine that.

10 THE COURT: Does it pay for me to go into this any
11 further or just say that you all need to sit down and work this
12 out, but we are going to be doing a very limited ESI search
13 here because of the timing?

14 Otherwise you're going to wind up getting the
15 responses, if at all, on midnight on December 13th.

16 MS. WAGONER: Absolutely. We don't want something
17 broad. It want it to be targeted. We have no interest in
18 doing anything voluminous here.

19 MS. BLOOM: We are happy to sit down and talk about
20 it.

21 THE COURT: Sooner rather than later. Certainly I
22 will expect this issue to be either resolved or teed-up for me
23 on November 9th. If you haven't resolved it much earlier than
24 that so you can actually start doing the work, somebody's
25 Thanksgiving and other holiday period is likely to be severely

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1 ruined. So try very hard to come up with an agreement, and I
2 also strongly suggest that in light of this conference,
3 plaintiffs take a look at their document requests and
4 interrogatories and see which of them are dropped either
5 automatically as a result of this Court's ruling, meaning that
6 you are getting People Soft with phone numbers and not all the
7 other things in Request 1 which probably carries over to a lot
8 of other requests, and notify the defendants which requests are
9 withdrawn or narrowed.

10 I put you all on notice, 26 (g)(1), the certification
11 which is the Rule 11 equivalent for discovery is applicable. I
12 invite you all to read Mancina against Mayflower, Judge Grimm's
13 decision in the District of Maryland dealing with 26 (g)(1),
14 and you don't want to be in a position where you come back and
15 say we have 20 requests that we're disagreeing on, and as I
16 start going through them, I will not be shy about imposing
17 sanctions payable either to opposing side, or if it winds up
18 that it looks like it is just going to be a wash and you're
19 taking up a lot of my time, a per-request sanction on the
20 losing party payable under 26 (g) to the Clerk of Court.

21 So let's try, it is late in the case, whatever has
22 gone on before, let's try to get through this last phase
23 cooperatively. Is there anything else from either side?

24 MS. WAGONER: No, your Honor.

25 MS. BLOOM: No, your Honor.

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1 THE COURT: All right. Both sides are ordered to
2 purchase the transcript. I'll say this at this conference so I
3 don't have to say it at future conferences. You have under the
4 rule, 26 U.S. Code 636, Federal Rule of Civil Procedure 72, 14
5 calendar days to file objections to any of my rulings with
6 Judge Pauley. Failure to do so within that time period
7 constitutes a waiver.

8 Filing objections does not give you a stay. If you
9 want a stay, you have to ask me and/or Judge Pauley for it.
10 Since you have heard the rulings from the Bench, your 14 days
11 starts immediately at this or any other conference where it
12 applies regardless of how quickly you decide to purchase the
13 transcript from the Court Reporter.

14 I will see you on November 9th.

15 (Court adjourned)
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